

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2024/0035
Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot 259 DP 752017, 259 / 0 Aumuna Road TERREY HILLS NSW 2084
Proposed Development:	Modification of Development Consent DA2022/0888 granted for Alterations and additions to a dwelling house including a garage, shed and carport
Zoning:	Warringah LEP2011 - Land Zoned RU4 Primary Production Small Lots
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Robert George Sloss Raine Marie Sloss
Applicant:	Robert Sloss

Application Lodged:	06/02/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	14/02/2024 to 28/02/2024
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposed modification seeks consent for changes to the approved development as follows:

- Lower shed floor and roof levels by 400mm;
- Construct a new retaining wall on the north-eastern side of the shed to suit the altered levels;
- Lower gym floor level by 290mm;
- Construct a new retaining wall and stair on the northern side of the gym;
- Construct a new path around the eastern side of the gym;
- Extend the approved roof over the dwelling entry and raise its height by 400mm

The proposed changes do not materially alter the approved building footprint or building envelope and do not result in any non-compliance with the applicable development controls.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 6.2 Earthworks

SITE DESCRIPTION

Property Description:	Lot 259 DP 752017 , 259 / 0 Aumuna Road TERREY HILLS NSW 2084
Detailed Site Description:	The subject site consists of one allotment with frontages to Aumuna Road (primary frontage) and Coolowie Road (secondary frontage). Vehicular access to the site is confined to the Aumuna Road frontage, whereas pedestrian access can be obtained from both frontages. The site is irregular in shape with a surveyed area of 1.806 hectares. The site is located within the RU4 Primary Production Small Lots zone pursuant to Warringah LEP 2011 and accommodates a single storey dwelling house including a detached garage, a detached carport, an in-ground swimming pool and a tennis court. The site is well vegetated and includes numerous native trees, lawn areas and various vegetation. The site experiences a gradual fall of approximately 22

metres that slopes away from the north-eastern corner towards the north-western corner.

Description of Surrounding Development

Surrounding development comprises a mix of large allotments containing dwelling houses and other rural land uses within a large-lot-residential and rural setting. The Kinma Primary and Pre-school is located directly to the north of the site on the northern side of Coolowie Road.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- DA2011/1252 - Removal of 66 trees - Approved 13 October 2011.
- DA2021/1993 - Alterations and additions to a dwelling house including a new garage, studio and home business - Withdrawn.
- DA2022/0888 - Alterations and additions to a dwelling house including a garage, shed and carport - Approved 27 July 2022.
- Mod2023/0088 - Modification of Development Consent DA2022/0888 granted for Alterations and additions to a dwelling house including a garage, shed and carport - Approved 19 May 2023.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2022/0888 and Mod2023/0088, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2022/0888 for the following reasons: • The proposed modification maintains the approved residential use of the site; • The proposed modification largely maintains the approved built form; and • The proposed modification will not cause any adverse environmental, visual or amenity impacts.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being	Development Application DA2022/0888 did not require concurrence from the relevant Minister, public authority or approval body.

Section 4.55 (2) - Other Modifications	Comments
consulted, objected to the modification of that consent, and	
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 (2) the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development	Warringah Development Control Plan applies to this proposal.

Section 4.15 'Matters for Consideration'	Comments
control plan	
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The application is accompanied by a letter prepared by a qualified Bushfire Consultant, which confirms that the modified development does not alter the previous recommendations made within the Bushfire Risk Assessment report, dated 6 February 2023.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 14/02/2024 to 28/02/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Unsewered Lands)	General Comments This application is seeking consent for modification works. The Statement of Environmental Effects states the following: - Shed – proposed reduction on the entire structure’s elevation by 400mm. The finished floor level is expected to transition from RL169.40 to RL169.00, and the roof ridge from RL177.31 to RL176.91. This alteration in relative levels aims to enhance the efficiency of the earthworks in the perimeter of the proposed shed. - Associated construction of the retaining wall on the NE side of shed. - Gym – lowering the finished floor level from RL172.46 to RL172.17, a reduction of 290mm. This modification is intended to ensure that only one step is required between the existing garage and the proposed gym. - Gym – concrete path in perimeter or the new extension to facilitate safe and stable access to the external toilet. - Gym – associated construction of the retaining wall. - Entry – extension of the roof over the carport connecting the existing garage/gym to the main dwelling involves an approximate 3m extension and a 0.4m

Internal Referral Body	Comments
	increase in height. A review of the wastewater report submitted with the original DA and first Modification has identified no changes to the approved wastewater system. The land application area remains the same and this modification doesn't require alterations to the approved system. The original conditions applied through DA2022/0888 and Mod2023/0088 still apply. Environmental health recommends approval.
Landscape Officer	Additional Comment 13/03/2024 No objections to the proposed modification following clarification of the tree numbering. Original Comment The Modification includes re-siting of the shed from the previously approved location. Under the previous location, approval was granted for removal of a number of trees. The re-located shed will require removal of trees other than those approved previously. The Plans indicate tree numbers of those to be removed under the Mod. However, no Arborist's report was sighted with the documents viewed and the tree numbers do not accord with the numbers on the Arborist's report submitted with the previous application. It is necessary to identify the trees proposed for removal under this modification to enable proposed assessment of the impacts. If additional, information regarding the trees is provided, further assessment can be undertaken.
NECC (Bushland and Biodiversity)	The development application has been assessed against the following applicable biodiversity legislation and controls: • Biodiversity Conservation Act 2016 (BC Act 2016) • Biodiversity Conservation Regulation 2017 (BC Reg 2017) • Planning for Bushfire Protection 2019 (PBP 2019) • Warringah DCP cl. E2 Prescribed Vegetation • Warringah DCP cl. E4 Wildlife Corridors • Warringah DCP cl. E6 Retaining Unique Environmental Features The proposed changes to ancillary structures would take place in previously disturbed areas and are unlikely to impact upon native flora and fauna.

Internal Referral Body	Comments
	The proposed relocation of the shed results in impacts to additional trees to those approved for removal under DA2022/0888. However, upon review of documents provided with MOD2023/0088, no additional trees are being proposed for removal on top of those approved for removal. The submitted bushfire report confirms that no additional measures are required for compliance with PBP 2019. The landscape proposal has not included a plating schedule including species of trees proposed for planting but provides enough plantings to compensate for the loss of the trees in the long term. This has been previously conditioned. The development is designed, sited and will be managed to avoid any significant adverse environmental impact.
NECC (Development Engineering)	I have reviewed the Statement of Modification and other supporting documents and have no objections to the proposed development subject to the retention of the existing engineering conditions and the inclusion of the recommended engineering conditions of consent.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A426499_03 dated 7 March 2023).

A condition has been included in the recommendation of this report requiring compliance with the

commitments indicated in the BASIX Certificate.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	Max. 8.1m (Shed)	Dwelling: 5.9m (unchanged)	N/A	Yes

			Gym: 7.8m (unchanged) Shed: 7.7m		
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Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

6.2 Earthworks

The proposed excavation and retaining wall works are minor and do not raise any concerns in relation to site stability or impacts to the natural environment or adjoining properties.

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	5.6m	Unchanged	Yes
B5 Side Boundary Setbacks (South-east)	10m	26.55m	Unchanged	Yes
B7 Front Boundary Setbacks (Aumuna Road)	20m	27.24m	Unchanged	Yes
B7 Front Boundary Setbacks (Coolowie Road)	10m	10.46m	Unchanged	Yes
D1 Landscaped Open Space and Bushland Setting	30%	87.3%	Unchanged	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;

- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2024/0035 for Modification of Development Consent DA2022/0888 granted for Alterations and additions to a dwelling house including a garage, shed and carport on land at Lot 259 DP 752017,259 / 0 Aumuna Road, TERREY HILLS, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-408397 - Mod2024/0035	The date of this notice of determination	Modification of Development Consent DA2022/0888 granted for Alterations and additions to a dwelling house including a garage, shed and carport. • Add Condition 1B
PAN-308796 - Mod2023/0088	19 May 2023	Modification of Development Consent DA2022/0888 granted for Alterations and additions to a dwelling house

		including a garage, shed and carport.
		• Add Condition 1A • Delete Condition 13 • Add Condition 16A • Add Condition 16B • Modify Condition 17 • Add Condition 38A • Add Condition 38B • Add Condition 41

Modified conditions

A. Add Condition No.1B - Modification of Consent - Approved Plans and supporting documentation, to read as follows:

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
A101	2	Site Plan - Overall	Blue Sky Building Designs	22 January 2024
A102	2	Shed Site Plan	Blue Sky Building Designs	22 January 2024
A103.1	2	Shed - Floor Plan	Blue Sky Building Designs	22 January 2024
A103.2	2	Shed - Mezzanine	Blue Sky Building Designs	22 January 2024
A104	2	Shed Elevations	Blue Sky Building Designs	22 January 2024
A105	2	Shed Elevations & Sections	Blue Sky Building Designs	22 January 2024
A106	2	House - Site Plan	Blue Sky Building Designs	22 January 2024
A109	2	House - Floor Plan	Blue Sky Building Designs	22 January 2024
A110	2	Ceiling Plan & Mezzanine	Blue Sky Building Designs	22 January 2024
A111	2	House - Elevations	Blue Sky Building Designs	22 January 2024
A112	2	House - Elevations / Section	Blue Sky Building Designs	22 January 2024
A113	2	House - Sections	Blue Sky Building Designs	22 January 2024
A114	2	House - Sections	Blue Sky Building Designs	22 January 2024
A115	2	House - Sections	Blue Sky Building Designs	22 January 2024

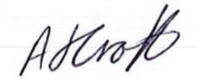
In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Adam Croft, Principal Planner

The application is determined on 14/03/2024, under the delegated authority of:



Steven Findlay, Manager Development Assessments